

CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 148

Citations Affected: IC 6-3.5-1.1.

Synopsis: Use of CAGIT revenue by certain counties. Provides that county adjusted gross income tax (CAGIT) revenue in Elkhart County and Marshall County may also be used to operate and maintain jail facilities, juvenile court, detention, and probation facilities, other criminal justice facilities, and related buildings and parking facilities (in addition to being used for the financing, construction, acquisition, renovation, and equipment of those facilities under existing law). Provides that Marshall County may not impose an additional CAGIT rate for jail maintenance and operations after the bonds issued to construct the jail are paid off. **(This conference committee report: Reconciles the provisions of the House-passed and the Senate-passed versions of SB 148 concerning the use of additional county option adjusted gross income tax revenue for the operation and maintenance of criminal justice facilities in Elkhart and Marshall counties.)**

Effective: Upon passage.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 148 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 6-3.5-1.1-2.8 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.8. (a) This
- 4 section applies to:
- 5 (1) a county having a population of more than one hundred
- 6 eighty-two thousand seven hundred ninety (182,790) but less than
- 7 two hundred thousand (200,000); and
- 8 (2) a county having a population of more than forty-five thousand
- 9 (45,000) but less than forty-five thousand nine hundred (45,900).
- 10 (b) The county council may, by ordinance, determine that additional
- 11 county adjusted gross income tax revenue is needed in the county to:
- 12 (1) finance, construct, acquire, improve, renovate, or equip:
- 13 (A) jail facilities;
- 14 (B) juvenile court, detention, and probation facilities;
- 15 (C) other criminal justice facilities; and
- 16 (D) related buildings and parking facilities;
- 17 located in the county, including costs related to the demolition of
- 18 existing buildings and the acquisition of land; and
- 19 (2) repay bonds issued or leases entered into for the purposes
- 20 described in subdivision (1).
- 21 **(c) The county council may, by ordinance, determine that**

1 additional county adjusted gross income tax revenue is needed in
2 the county to operate or maintain:

- 3 (1) jail facilities;
- 4 (2) juvenile court, detention, and probation facilities;
- 5 (3) other criminal justice facilities; and
- 6 (4) related buildings and parking facilities;

7 located in the county. A county council of a county described in
8 subsection (a)(1) or (a)(2) may make a determination under both
9 this subsection and subsection (b).

10 ~~(c)~~ (d) In addition to the rates permitted by section 2 of this chapter,
11 the county council may impose the county adjusted gross income tax at
12 a rate of:

- 13 (1) fifteen-hundredths percent (0.15%);
- 14 (2) two-tenths percent (0.2%); or
- 15 (3) twenty-five hundredths percent (0.25%);

16 on the adjusted gross income of county taxpayers if the county council
17 makes ~~the~~ a finding and determination set forth in subsection (b) ~~or~~ (c).
18 The tax rate may not be imposed at a rate greater than is
19 necessary to carry out the purposes described in subsections (b)
20 and (c), as applicable.

21 (e) This subsection applies only to a county described in
22 subsection (a)(1). If the county council imposes the tax under this
23 section to pay for the purposes described in both subsections (b)
24 and (c), when:

- 25 (1) the financing, construction, acquisition, improvement,
26 renovation, and equipping described in subsection (b) are
27 completed; and
- 28 (2) all bonds issued (including any refunding bonds) or leases
29 entered into to finance the construction, acquisition,
30 improvement, renovation, and equipping described in
31 subsection (b) are fully paid;

32 the county council shall, subject to subsection (d), establish a tax
33 rate under this section by ordinance such that the revenue from the
34 tax does not exceed the costs of operating and maintaining the jail
35 facilities referred to in subsection (b)(1)(A).

36 (f) The tax imposed under this section may be imposed only until the
37 ~~later last of the date on which:~~ following dates:

- 38 (1) The date on which the financing, construction, acquisition,
39 improvement, renovation, and equipping described in subsection
40 (b) are completed. ~~or~~
- 41 (2) The date on which the last of any bonds issued (including any
42 refunding bonds) or leases entered into to finance the construction,
43 acquisition, improvement, renovation, and equipping described in
44 subsection (b) are fully paid.
- 45 (3) If the county imposing the tax under this section is a county
46 described in subsection (a)(1), the date on which an ordinance
47 adopted under subsection (c) is rescinded.

48 (g) The term of the bonds issued (including any refunding bonds) or
49 a lease entered into under subsection (b)(2) may not exceed twenty (20)

1 years.

2 ~~(d)~~ If the county council makes a determination under subsection (b);
 3 the county council may adopt a tax rate under subsection (c). The tax
 4 rate may not be imposed at a rate greater than is necessary to pay the
 5 costs of carrying out the purposes described in subsection (b)(1).

6 ~~(e)~~ **(h)** The county treasurer shall establish a criminal justice facilities
 7 revenue fund to be used only for purposes described in this section.
 8 County adjusted gross income tax revenues derived from the tax rate
 9 imposed under this section shall be deposited in the criminal justice
 10 facilities revenue fund before making a certified distribution under
 11 section 11 of this chapter.

12 ~~(f)~~ **(i)** County adjusted gross income tax revenues derived from the
 13 tax rate imposed under this section:

- 14 (1) may be used only for the purposes described in this section;
- 15 (2) may not be considered by the department of local government
- 16 finance in determining the county's maximum permissible property
- 17 tax levy limit under IC 6-1.1-18.5; and
- 18 (3) may be pledged to the repayment of bonds issued or leases
- 19 entered into for any or all the purposes described in subsection (b).

20 ~~(g)~~ **(j)** Notwithstanding any other law, funds accumulated from the
 21 county adjusted gross income tax imposed under this section after:

- 22 ~~(1)~~ the completion of the financing, construction, acquisition,
- 23 improvement, renovation, and equipping described in subsection
- 24 ~~(b)~~;
- 25 ~~(2)~~ the payment or provision for payment of all the costs for
- 26 activities described in subdivision (1);
- 27 ~~(3)~~ the redemption of bonds issued; and
- 28 ~~(4)~~ the final payment of lease rentals due under a lease entered into
- 29 under this section;

30 **money remaining in the criminal justice facilities revenue fund**
 31 **established under subsection (h) after the tax imposed by this**
 32 **section is terminated under subsection (f)** shall be transferred to the
 33 county highway fund to be used for construction, resurfacing,
 34 restoration, and rehabilitation of county highways, roads, and bridges.

35 SECTION 2. IC 6-3.5-1.1-10 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Except as
 37 provided in subsection (b), one-half (1/2) of each adopting county's
 38 certified distribution for a calendar year shall be distributed from its
 39 account established under section 8 of this chapter to the appropriate
 40 county treasurer on May 1 and the other one-half (1/2) on November 1
 41 of that calendar year.

42 (b) This subsection applies to a county having a population of more
 43 than one hundred forty-five thousand (145,000) but less than one
 44 hundred forty-eight thousand (148,000). Notwithstanding section 9 of
 45 this chapter, the initial certified distribution certified for a county under
 46 section 9 of this chapter shall be distributed to the county treasurer from
 47 the account established for the county under section 8 of this chapter
 48 according to the following schedule during the eighteen (18) month
 49 period beginning on July 1 of the year in which the county initially

1 adopts an ordinance under section 2 of this chapter:

2 (1) One-fourth (1/4) on October 1 of the year in which the
3 ordinance was adopted.

4 (2) One-fourth (1/4) on January 1 of the calendar year following the
5 year in which the ordinance was adopted.

6 (3) One-fourth (1/4) on May 1 of the calendar year following the
7 year in which the ordinance was adopted.

8 (4) One-fourth (1/4) on November 1 of the calendar year following
9 the year in which the ordinance was adopted.

10 Notwithstanding section 11 of this chapter, the part of the certified
11 distribution received under subdivision (1) that would otherwise be
12 allocated to a civil taxing unit or school corporation as property tax
13 replacement credits under section 11 of this chapter shall be set aside
14 and treated for the calendar year when received by the civil taxing unit
15 or school corporation as a levy excess subject to IC 6-1.1-18.5-17 or
16 IC 6-1.1-19-1.7. Certified distributions made to the county treasurer for
17 calendar years following the eighteen (18) month period described in
18 this subsection shall be made as provided in subsection (a).

19 (c) Except for:

20 (1) revenue that must be used to pay the costs of operating a jail
21 and juvenile detention center under section 2.5(d) of this chapter;

22 (2) revenue that must be used to pay the costs of:

23 (A) financing, constructing, acquiring, improving, renovating, ~~or~~
24 equipping, **operating, or maintaining** facilities and buildings;

25 (B) debt service on bonds; or

26 (C) lease rentals;

27 under section 2.8 of this chapter;

28 (3) revenue that must be used to pay the costs of construction,
29 improvement, renovation, or remodeling of a jail and related
30 buildings and parking structures under section 2.7, 2.9, or 3.3 of
31 this chapter;

32 (4) revenue that must be used to pay the costs of operating and
33 maintaining a jail and justice center under section 3.5(d) of this
34 chapter; or

35 (5) revenue that must be used to pay the costs of constructing,
36 acquiring, improving, renovating, or equipping a county courthouse
37 under section 3.6 of this chapter;

38 distributions made to a county treasurer under subsections (a) and (b)
39 shall be treated as though they were property taxes that were due and
40 payable during that same calendar year. Except as provided by
41 subsection (b), the certified distribution shall be distributed and used by
42 the taxing units and school corporations as provided in sections 11
43 through 15 of this chapter.

44 (d) All distributions from an account established under section 8 of
45 this chapter shall be made by warrants issued by the auditor of the state
46 to the treasurer of the state ordering the appropriate payments.

47 SECTION 3. IC 6-3.5-1.1-11 IS AMENDED TO READ AS
48 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except for:

49 (1) revenue that must be used to pay the costs of operating a jail

and juvenile detention center under section 2.5(d) of this chapter;

(2) revenue that must be used to pay the costs of:

(A) financing, constructing, acquiring, improving, renovating, ~~or~~ equipping, **operating, or maintaining** facilities and buildings;

(B) debt service on bonds; or

(C) lease rentals;

under section 2.8 of this chapter;

(3) revenue that must be used to pay the costs of construction, improvement, renovation, or remodeling of a jail and related buildings and parking structures under section 2.7, 2.9, or 3.3 of this chapter;

(4) revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter; or

(5) revenue that must be used to pay the costs of constructing, acquiring, improving, renovating, or equipping a county courthouse under section 3.6 of this chapter;

the certified distribution received by a county treasurer shall, in the manner prescribed in this section, be allocated, distributed, and used by the civil taxing units and school corporations of the county as certified shares and property tax replacement credits.

(b) Before August 10 of each calendar year, each county auditor shall determine the part of the certified distribution for the next succeeding calendar year that will be allocated as property tax replacement credits and the part that will be allocated as certified shares. The percentage of a certified distribution that will be allocated as property tax replacement credits or as certified shares depends upon the county adjusted gross income tax rate for resident county taxpayers in effect on August 1 of the calendar year that precedes the year in which the certified distribution will be received by two (2) years. The percentages are set forth in the following table:

COUNTY	PROPERTY	
	TAX	
ADJUSTED GROSS	REPLACEMENT	CERTIFIED
INCOME TAX RATE	CREDITS	SHARES
0.5%	50%	50%
0.75%	33 1/3%	66 2/3%
1%	25%	75%

(c) The part of a certified distribution that constitutes property tax replacement credits shall be distributed as provided under sections 12, 13, and 14 of this chapter.

(d) The part of a certified distribution that constitutes certified shares shall be distributed as provided by section 15 of this chapter

SECTION 4. **An emergency is declared for this act.**

(Reference is to ESB 148 as reprinted February 22, 2006.)

Conference Committee Report
on
Engrossed Senate Bill 148

Signed by:

Senator Riegsecker
Chairperson

Representative Heim

Senator Broden

Representative Oxley

Senate Conferees

House Conferees